

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE WESTERN DISTRICT OF TENNESSEE**

3 RODNEY HUFFMAN,

4 Plaintiff,

5 v.

6 DISH NETWORK, LLC,

7 Defendants.

)
)
) Civil Action No. 15-CV-02274
)

) **JURY TRIAL DEMANDED**
)

8
9 **FIRST AMENDED COMPLAINT**

10 RODNEY HUFFMAN (“Plaintiff”), by and through his attorneys, KIMMEL &
11 SILVERMAN, P.C., alleges the following against DISH NETWORK, LLC (“Defendant”):

12
13 **INTRODUCTION**

14 1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act, 47
15 U.S.C. § 227, *et seq.* (“TCPA”).

16
17 **JURISDICTION AND VENUE**

18 2. Jurisdiction of this Court arises under 28 U.S.C. § 1331, which grants this court
19 original jurisdiction of all civil actions arising under the laws of the United States. See Mims v.
20 Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

21 3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

22
23 **PARTIES**

24 4. Plaintiff is a natural person, who resides in Bartlett, Tennessee.

25 5. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

1 6. Defendant is a corporation with its headquarters located at 9601 S. Meridian
2 Blvd., Englewood, Colorado, 80112.

3 7. Defendant is a “person” as that term is defined by 47 U.S.C. § 153(39).

4 8. Defendant acted through its agents, employees, officers, members, directors,
5 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

6
7
8 **FACTUAL ALLEGATIONS**

9 9. Plaintiff has a cellular telephone number (901-830-****) that he has had for over
10 a year.

11 10. Plaintiff has only used this number as a cellular telephone number.

12 11. The phone number has been assigned to a cellular telephone service for which
13 Plaintiff incurs a charge for incoming calls.

14 12. Beginning in or before January 2015 and continuing through March 2015,
15 Defendant called Plaintiff on his cellular telephone on a repetitive and continuous basis using
16 numbers including 800-333-3474. The undersigned has confirmed this number belongs to
17 Defendant.

18 13. Between January 2015 and March 2015, Defendant called Plaintiff on his cellular
19 telephone, on average, once a day.

20 14. When contacting Plaintiff on his cellular telephone, Defendant used an automatic
21 telephone dialing system and automatic and/or pre-recorded messages.

22 15. Plaintiff knew Defendant was using an automatic telephone dialing system and
23 automatic and/or pre-recorded messages as Plaintiff received automated messages that indicated
24 the name of Defendant’s company.
25

1 16. Defendant's telephone calls were not made for "emergency purposes" rather the
2 calls were made to collect on a debt related to cable equipment.

3 17. In January 2015 when the calls first began Plaintiff told Defendant the debt was
4 discharged in his 2013 bankruptcy and to stop calling him.

5 18. Defendant heard and acknowledged Plaintiff's revocation of consent and demand
6 to stop calling his cellular telephone number.

7 19. Despite the above, Defendant ignored Plaintiff's demand that calls cease, and
8 persisted in calling Plaintiff on his cellular telephone through March 2015.
9

10
11 **DEFENDANT VIOLATED THE**
12 **TELEPHONE CONSUMER PROTECTION ACT**

13 20. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at
14 length herein.

15 21. Defendant initiated multiple automated telephone calls to Plaintiff's cellular
16 telephone using a prerecorded voice.

17 22. Defendant initiated these automated calls to Plaintiff using an automatic telephone
18 dialing system.

19 23. Defendant's calls to Plaintiff were not made for emergency purposes.

20 24. Defendant's calls to Plaintiff, after January 2015, were not made with Plaintiff's
21 prior express consent.

22 25. Defendant's acts as described above were done with malicious, intentional,
23 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the
24 purpose of harassing Plaintiff.
25

WHEREFORE, Plaintiff, RODNEY HUFFMAN, respectfully prays for a judgment as follows:

- ## DEMAND FOR JURY TRIAL

PLAINTIFF'S FIRST AMENDED COMPLAINT

Respectfully submitted;

DATED: August 21, 2015

By: /s/ Amy Lynn Bennecoff Ginsburg

Amy Lynn Bennecoff Ginsburg

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